

Notice of Allowability

Application No.

10/786,600

Applicant(s)

STOTZER, ERWIN

Examiner

Gay Ann Spahn

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Response and Amendment filed on 15 September 2005.
2. ☒ The allowed claim(s) is/are 1-5 and 11-18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>15 September 2005</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

Information Disclosure Statement

The information disclosure statement filed 15 September 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 for at least the following two reasons.

(1) The Information Disclosure Statement (IDS) has U.S. Patent Application Serial No. 10/642,568 listed on the caption on the front page and on the attached post card receipt so that there is no clear proof that it was actually filed in U.S. Patent Application Serial No. 10/786,600. In other words, the attached post card receipt is immaterial as not pertaining to the present application.

Furthermore, the examiner of U.S. Patent Application Serial No. 10/642,568 obviously thought that the Information Disclosure Statement (IDS) was meant to be filed in the application he was examining because he initialed each item on the PTO-Form-1449 of the Information Disclosure Statement (IDS), signed and dated the PTO-Form-1449 of the Information Disclosure Statement (IDS), and crossed out U.S. Patent Application Serial No. 10/786,600 on the top of the PTO-Form-1449 and wrote in U.S. Patent Application Serial No. 10/642,568.

(2) The present information disclosure statement does not include a copy of each of the references listed in the "Foreign Patent Documents" section as is required.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-

Art Unit: 3673

submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Linda J. Shapiro on November 28, 2005.

The application has been amended as follows:

IN THE CLAIMS:

The following changes to the claims have been approved by the examiner and agreed upon by applicant:

- (1) claim 17, line 1, change "6" to --16--; and
- (2) cancel claims 6-10.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,971,480 to Nakanishi discloses a ground hardening material injector.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gay Ann Spahn, Patent Examiner
November 15, 2005



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**